IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4625 of 2005

Mr.Sahebrao Trembak Roundal ..Petitioner

V/s

Pukhraj Mulchandji Kothari .. Respondent

Ramesh Dube Patil i/b Jay and Co. for Petitioner

CORAM:S.A.BOBDE,J.

DATED:18th July 2005

P.C.:-

1. This petition is filed by original defendant. The Respondent's suit is for injunction in respect of suit land which is Gat NO.273/2 admeasuring 1 Hector. He sought interim injunction from disturbing his possession over the suit land. The Petitioner is admittedly owner of the adjacent land.

2. The trial Court granted an injunction restraining the Petitioner from disturbing of the suit property. The lower Appellate Court, in addition to the order of the trial Court, granted an injunction restraining the Petitioner from disturbing the Respondent's possession over the suit land i.e. 1 Hector.

3. While granting this injunction the Appellate Court has based the injunction on the basis that the Respondent has succeeded in establishing his ownership and possession over 1 Hector area of Gat No.273/2. The Appellate court has rejected the Petitioner's contention that he is in possession of greater area since the Survey was carried behind the back of the Respondent. There is no reason in these circumstances to interfere with the order of the injunction.

4. The learned Counsel for the Petitioner submitted that by order below Exh.48 the Joint Civil Judge,J.D., ought to have granted the Petitioner's request for demarcation of 1 Hector in question. This application is rejected on the ground that Additional district Judge has given a clear finding about the possession of the Respondent over the suit property. The trial Court has not found any ambiguity having regard to the fact that admittedly the evidence is going on. There is no reason to interfere with impugned orders. The petition is, therefore, dismissed.

5. In the circumstances the trial Court is directed to decide the suit as expeditiously as possible and in any case not later than 6 months from the date of hearing.

(S.A.BOBDE, J.)